

TSV HOLDINGS LIMITED
PROJECT AND INSTALLATION TERMS AND CONDITIONS

The following terms and conditions apply to all projects and installation work provided by TSV Holdings Limited or any of our subsidiaries including but not limited to the Tecsound and Calltec entities (“us, we”). By purchasing or receiving goods or services from us, you accept the following terms and conditions, without limitation or qualification.

1. Definitions

In these conditions the following words have these meanings:

“**Conditions**” means these terms and conditions.

“**Customer**” means a person, firm or corporation, jointly and severally, if there are more than one, acquiring goods or services from us.

“**Goods**” means goods supplied by us to the Customer.

“**Services**” means services supplied by us to the Customer.

2. Basis of contract

- 2.1 Unless otherwise agreed in writing by us, these Conditions apply exclusively to every contract for the sale of Goods or Services by us to the Customer and cannot be varied or supplanted by any other conditions.
- 2.2 Any written quotation provided by us to the Customer concerning the proposed supply of Goods or Services is valid for 30 days and is an invitation only to the Customer to place an order based upon that quotation. The Conditions may include additional terms in our quotation which are not inconsistent with these Conditions.

3. Payment

- 3.1 Payment for Goods and Services must be made by cash, Electronic Funds Transfer or credit card. Note: surcharges may apply. Where the Customer has an approved credit account with us, payment will be due 30 days from the date of our invoice. Where a Customer does not have approved credit facility with us, payment must be made in full upon delivery of the Goods or completion of the Services.
- 3.2 Where there is any change in the costs incurred by us in relation to the Goods or Services that we are to provide to the Customer, we may vary our price for the Goods or Services on order to take account of any such change, without giving notice to the Customer.
- 3.3 We will not provide the Customer with retention sums. There is to be no set-off or deduction from our invoices. Bank guarantees may be provided if agreed by us in writing.

4. Payment default

- 4.1 If the Customer defaults in payment by the due date of any amount payable to us, then all money which would become payable by the Customer to us at a later date on any account, becomes immediately due and payable without the requirement of any notice to the Customer, and we may, without prejudice to any other remedy available to us:
- (a) charge the Customer for all expenses and costs (including legal costs on a solicitor and own client basis and dishonoured cheque fees) incurred by us resulting from the default and in taking whatever action we deem necessary and appropriate to recover any sum due;
 - (b) cease or suspend for such period as we think fit, supply of any further Goods or Services to the Customer;
 - (c) by notice in writing to the Customer, terminate any contract with the Customer so far as unperformed by us, without effect on the accrued rights of us under any contract; and
 - (d) charge interest on the outstanding amount at the rate of 1.5% per calendar month on the outstanding balance compounding.
- 4.2 Clauses 4.1(b) and 4.1(c) may also be relied upon, at our option where the Customer:
- (a) defaults in any of its obligations to us and does not remedy that default within a period of 7 days;
 - (b) is an individual and becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of his or her creditors or any class of his or her creditors generally; or
 - (c) is a corporation and it enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, provisional liquidator, administrator, receiver or receiver and manager appointed, or any action is taken for, or with a view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Customer.

5. Passing of title

Until full payment in cleared funds is received by us for all Goods supplied by us to the Customer, as well as other amounts owing to us by the Customer:

- (a) title and property in all Goods remain vested in us and do not pass to the Customer;
- (b) the Customer must hold the Goods as fiduciary bailee and agent for us;
- (c) the Customer must keep the Goods separate from its goods and maintain the labelling and packaging of the Goods;

- (d) the Customer is required to hold the proceeds of any sale of the Goods on trust for us in a separate account, however failure to do so will not affect the Customer's obligation to deal with the proceeds as trustee;
- (e) we may, without notice, enter any premises where we suspect the Goods may be and remove them, notwithstanding that they may have been attached to other goods not the property of us, and for this purpose the Customer irrevocably licences us to enter such premises and also indemnifies us from and against all costs, claims, demands or actions by or any party arising from such action;
- (f) the Customer agrees to hereby charge in favour of us, all the Customer's real and personal property (including property acquired after the date of these Conditions) with the Customer's obligations under these Conditions to allow us to lodge a caveat over the Customer's real property to protect its interests under the charge given under these Conditions and, in addition, the Customer will agree to deliver to us within 7 days of receipt of a written demand, an executed mortgage in the form required by us ("**Mortgage**") in a form capable of immediate registration, which will provide that the monies outstanding to us are payable on demand and which incorporate the covenants and Conditions required by us, and irrevocably appoints us and any person nominated by us as our attorney in the event of the Customer failing to comply with its obligations under this clause, with power to execute the Mortgage and to have it registered.

6. Risk in Goods

The risk in the Goods and all insurance responsibility for theft, damage or otherwise in respect of the Goods will pass to the Customer immediately upon delivery of the Goods to the premises nominated by the Customer.

7. Performance

Any period or date for delivery of Goods or provision of Services stated by us is intended as an estimate only and is not a contractual commitment. We will use our reasonable commercial endeavours to meet any estimated dates for delivery of Goods or completion of the Services. Where delays are caused or contributed to by third parties, we may charge the Customer for our opportunity cost, time wasted and holding charges. The delivery of Goods and the provision of Services has been scheduled to occur within normal business hours, unless otherwise agreed in writing by us. Where the delivery of Goods or the provision of Services are required to be carried out outside of normal hours, additional charges will apply.

8. Site amenity

No allowance has been made by us, unless otherwise agreed in writing, for:

- (a) the provision of site amenities including, but not limited to, toilets, crantage, lifting equipment or scaffolding; or
- (b) trenching, through slab conduits, conduits through tilt slab, chasing or such similar works.

(c) removal, cutting, drilling or penetrating of asbestos materials.

Where such amenities or other site needs are required by us in order to provide the Goods and Services, additional charges will apply.

9. Force majeure

We are under no liability for any delay or failure to perform in the event that the manufacture, supply or delivery of the Goods or the provision of the Services is prevented or delayed by any acts or circumstances beyond our reasonable control, including, but not limited to, acts of god, legislation, fire, drought, failure of power supply, lockout or strike.

10. Warranties

10.1 Subject to this clause, we warrant that the Goods will be free from material defects in materials and workmanship for a period of 12 months from the delivery date and that the Services will be provided with due skill and care. This warranty is in addition to any other rights and remedies at law, including under the *Trade Practices Act 1974* (Cth), which cannot be excluded.

10.2 TSV reserves the right to raise an invoice on warranty claims where the required works take place after hours or when travel and accommodation costs are incurred.

10.3 The Customer agrees to immediately inspect all Goods delivered and report any damage, incorrect supply or dispute within 36 hours of delivery to us, otherwise we may refuse any claim the Customer makes.

10.4 This warranty does not apply in circumstances where:

- (a) the Goods or Services are not defective;
- (b) the Goods were used or Services required for a purpose other than for which they were intended;
- (c) the Goods were repaired, modified or altered by any person other than us;
- (d) the defect has arisen due to misuse, neglect or accident;
- (e) the defect has arisen due to normal wear and tear on the Goods;
- (f) the Goods have not been stored or maintained as recommended by us or the manufacturer; or
- (g) the Customer is in breach of these Conditions.
- (h) An alternate warranty provision has been made and agreed in writing.

11. Exclusions of liability

- 11.1 Subject to the following, any condition or warranty that would otherwise be implied in these Conditions are hereby excluded. Where legislation implies into these terms any condition or warranty which cannot be excluded, the liability of us for any breach of such a condition or warranty shall be limited, at our option, to one or more of the following:
- (a) the replacement of the Goods or the supply of equivalent Goods;
 - (b) the repair of the Goods;
 - (c) the payment of the cost of replacing the Goods or of acquiring equivalent Goods; or
 - (d) the payment of the cost of having the Goods repaired.
- 11.2 Our liability to the Customer is limited, and will not exceed the value of the Goods or Services, the subject of the claim, supplied to and paid for by the Customer.
- 11.3 The Customer releases us from and indemnifies and must continue to indemnify us against all and any liability to the Customer or any third party for any incidental, indirect, consequential, special, punitive or exemplary damages whatsoever and for any loss of profit.

12. Indemnity

The Customer shall indemnify and keep us indemnified against any costs, claims, proceedings or demands (including any reasonable legal costs or the cost of any bona fide out-of-court settlement as a result of a claim against us) arising from any act or omission of the Customer. We are not liable to the Customer in contract, in tort, in equity, by operation of statute (to the extent liability may be excluded by law) or otherwise for any kind of indirect or consequential loss or damage, loss of opportunity, loss of revenue, loss of profit or anticipated profit, loss of contracts, loss of goodwill, loss arising from business interruption or loss of data incurred or suffered by the Customer or any other person.

13. General

- 13.1 The Customer may not transfer or assign its contract with us to any third party without our prior written consent; such consent may be withheld at our discretion.
- 13.2 Any notice required to be given under these Conditions shall be given in writing and delivered by post, facsimile or personal delivery and shall be deemed to have been received:
- (a) on the date it was sent if delivered personally or by facsimile; or
 - (b) two days after posting if sent by mail.

13.3 If any part of these Conditions are found void or unenforceable, it will not affect the validity of the balance of these Conditions, and, which shall remain valid and enforceable according to its terms. The failure of a party to insist on the performance of an obligation under these Conditions shall not be deemed to be a waiver of such obligation or of any other obligation.

13.4 The laws of Victoria govern these Conditions.